

Appln. No.: 10/087,320
Interview Summary Dated March 25, 2004

BSI-030US7

Remarks/Arguments:

The following is an Interview Summary submitted in accordance with 37 C.F.R. 1.133(b).

Applicant acknowledges with thanks the courtesy shown his representative by Examiner Bui in a telephone interview of March 23, 2004.

In that interview, Applicant's undersigned attorney pointed out that the Gianturco Figure 6 as shown in the expanded view copied into the Final Rejection is misleading in that in the clearer showing of the actual Figure 6 in the Gianturco '706 patent, the "vertices" of the elongate elements of hoop 16" in at least two out of five cases do not meet. Whether the other "vertices" meet or not cannot be discerned from the Figure because the Figure is a two-dimensional representation of a three-dimensional object. Thus, even those "vertices" that may appear to touch in Figure 6 of Gianturco may not actually touch because of the possible physical separation in the third dimension which is not shown in Figure 6. Therefore, the drawings were never intended to show what the Office Action is referring to and the Office Action is inferring something from the drawings that cannot be discerned.

There is no question but that the Gianturco specification does not disclose a touching by the elongate elements of those of his hoops having eyelets at the far end of any such "vertices."

Under the circumstances, Applicant's attorney urged that Gianturco cannot be a proper basis for rejection of Applicant's claims, all of which, either directly or indirectly, recite that the stent/graft combination includes pairs of "elongate elements meeting one another and forming vertices axially pointing in the direction along the axis of the stent, wherein at least some of said vertices axially abut and are individually connected to oppositely pointing vertices of elongate elements of an adjacent hoop."

The Final Rejection finds such vertices in hoop 16" of Gianturco '706 Figure 6, where the elongate elements approach one another just to the right of the eyelets formed at the left end of hoop 16". Whether they meet and form vertices is an entirely different question.

Applicant's attorney urged the Examiner to consider the fact that Gianturco does not show any such elongate elements in hoop 16" which actually meet one another as is required by Applicant's claims (considering the question about Figure 6 discussed above).

As was pointed out to the Examiner during the interview, it is not significant that Gianturco does not exclude the possibility that the elongate elements of hoop 16" touch one another. The more important thing is that Gianturco does not affirmatively disclose that the elongate elements of hoop 16" do touch one another.

Still further, assuming *arguendo* that both hoop 16' and hoop 16" do in fact include such "vertices" and that such "vertices" do actually abut, the "vertices" are not individually connected to one another as required in Applicant's claims.

For all of the foregoing reasons, Applicant urges reconsideration by the Examiner who indicated that he would try to give the claims such reconsideration, but might find difficulty in doing so, in part because of the limited time available for examination of this application.


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Under these circumstances, Applicant's attorneys thank the Examiner for his time and again requests reconsideration for reasons set forth above.

Inasmuch as Applicant's attorneys believe that the issue has been joined in this case, it does not appear that there will be any point in filing a request for continued examination. It may be expeditious, instead, to request an interview with the Supervisory Examiner in this case, Examiner Milano. Applicant's representative indicated they would probably do so before, or as an alternative to, appealing the pending rejection.

Respectfully submitted,


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The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (703-872-9306) on the date shown below.

March 25, 2004
Patricia C. Brocella

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